

REMARKS

In the Office Action, claims 24-44 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claims 27 and 39-41 also are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,432,098 to Wilks. Claims 24-28, 39-42 and 44 also are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,544,799 to Lewis et al. Applicants herein cancel rejected claims 27 and 39-44 without prejudice or disclaimer to the subject matter recited therein. Applicants reserve the right to claim the subject matter in the cancelled claims at a later time. Applicants also herein amend claims 24 and 25 to correct minor typographical errors. Applicants respectfully traverse each of the rejections as follows.

In the Office Action, claims 24-44 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicants have herein cancelled claim 27 and claims 39-44, without prejudice or disclaimer, and therefore, the rejections with respect thereto are now moot.

Applicants respectfully traverse the statement in the Office Action that “gas is extracted through the top stage and liquid is extracted through the lower stages.” (See Office Action p. 2-3). Applicants submit that the lower stages may be used for liquid extraction, however, in various embodiments, may be used for other purposes as well. Also, Applicants submit that the upper stages may be used for extracting gas, however, in various embodiments, may be used for other purposes as well.

Applicants also traverse the statement in the Office Action that “[c]laim 24 implies that the device facilitates the extraction [of] gas and liquid through a single flow path by means of opening and closing one valve.” (See Office Action p. 3). On the

contrary, claim 24 recites, “a first valve having an open position wherein the first flow path is in line with the exit port and a closed position wherein the first flow path is in line with a source of pressurized gas and cut off from the exit port.”

Applicants submit that support for claims 24-26 and 28-38 may be found throughout the specification as originally filed. For example, Fig. 4 is a diagram according to one embodiment of the presently claimed invention. The flow path 76 may correspond to the first flow path of claim 24, and the valve D may correspond to the first valve of claim 24. According to Fig. 4, when the valve D is placed in an open position, the flow path 76 is in line with the exit port shown by the arrow labeled “Analytical Instrument.” When the valve D is placed in a closed position, the flow path 76 may be cut off from the exit port, and also may be in line with a source of pressurized gas, for example, gas/pressure control module 52 through the valve C.

The Office Action stated, “If there is only one flow path, how can liquid flow in the flow path when the valve is in a closed position?” (See Office Action p. 3). Applicants traverse the suggestion that claim 24 requires a liquid to flow in the first flow path. Referring back to Fig. 4, however, a liquid, gas, *etc.*, may flow through the flow path 76 when the valve D is in a closed position, because the flow path 76 may still be in line with a source of pressurized gas, for example, the gas/pressure control module 52. In view of the above, Applicants respectfully request favorable reconsideration of the rejection of claims 24-26 and 28-38 under 35 U.S.C. § 112.

In the Office Action, claims 27 and 39-41 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,432,098 to Wilks. Applicants have herein cancelled claims 27 and 39-41, without prejudice or disclaimer, making the rejections with respect thereto moot.

Also, in the Office Action, claims 24-28, 39-42 and 44 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,544,799 to Lewis et al. Applicants have herein cancelled claims 27, 39-42 and 44, without prejudice or disclaimer, making the rejections with respect thereto moot.

Applicants respectfully submit that the Lewis reference does not disclose each and every element set forth in the claims of the subject application. “[A] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Manual of Patent Examining Procedure at § 2131.

Applicants submit that Lewis does not disclose, at least, “a first valve having an open position wherein the first flow path is in line with the exit port . . . whereby a headspace gas extraction of the vial is facilitated by the valve being in the open position . . .,” as recited in claim 24. In other words, Lewis fails to disclose that its outer needle assembly 92 may be connected to any exit port. Rather, Lewis discloses that, “On-off valves C and D control a source of helium 233. Valve D connects to the outer needle assembly 92 in a water sample vial 42 held in vial holder 82.” (See Lewis at col. 16, ln. 35-37, Fig. 7). Accordingly, Applicants respectfully submit that Lewis fails to disclose the claimed features of the present invention. In view of the above, Applicants respectfully request favorable reconsideration of the rejection of claims 24-26, 28 and 30-38 under 35 U.S.C. § 102(e).

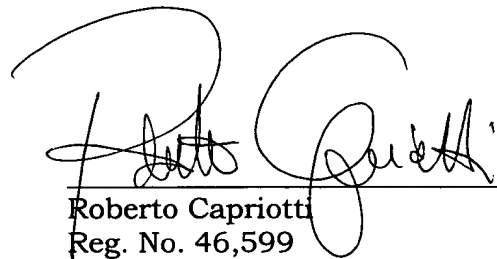
Applicants are not otherwise conceding the correctness of the Office’s rejection with respect to any of the dependent claims discussed above and hereby reserve the right to make additional arguments as may be necessary because the dependent claims include additional features that further distinguish the claims from the cited references, taken alone or in combination. A detailed discussion of these

differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

CONCLUSION

Applicants believes that they have fully addressed each basis for rejection. Favorable reconsideration of the claims of the subject application and issuance of a Notice of Allowance is respectfully requested. Should the Examiner have any remaining concerns, he is requested to contact the undersigned at the telephone number below so that those concerns may be addressed without the necessity for issuing an additional Office Action.

Respectfully submitted,



Roberto Capriotti
Reg. No. 46,599

KIRKPATRICK & LOCKHART LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, PA 15222-2312

Tel. (412) 355-8956
Fax (412) 355-6501

Customer No.: 26,285